

Appl. No. 10/763,543
Reply to Office action of Nov. 16, 2004

REMARKS

In response to the Office Action dated November 16, 2004, Applicants respectfully request reconsideration based on the following remarks. Applicants respectfully submit that the claims as presented are in condition for allowance.

Claim Rejections Under 35 U.S.C. §102(e)

Claims 1-9 and 18-21 were rejected under 35 U.S.C. §102(e) as being anticipated by Cho et al., U.S. Patent No. 6,511,747 (hereinafter "Cho"). Applicants respectfully traverse.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). It is submitted that Cho fails to teach each and every element as set forth in the claim 1 for at least the reasons described below.

Claim 1 recites, *inter alia*, melt-spinning a solid phase-polymerized polyethylene-2,6-naphthalate chip containing ethylene-2,6-naphthalate units at more than 85 mole% and a silica compound.

In contrast, Cho merely discloses melt-spinning a solid phase-polymerized polyethylene-2,6-naphthalate chip composed of 95 mol % or more of ethylene-2,6-naphthalate units. Cho fails to disclose the solid phase-polymerized polyethylene-2,6-naphthalate chip having a silica compound. Thus, Cho fails to teach melt-spinning a solid phase-polymerized polyethylene-2,6-naphthalate chip containing ethylene-2,6-naphthalate units at more than 85 mole% and a silica compound, as claimed in claim 1.

Accordingly, claim 1 is believed to be patentably distinct and nonobvious in view of Cho. Claims 2-9 and 18-21 depend either directly or indirectly from claim 1, thus include all the limitations of claim 1. Thus, claims 2-9 and 18-21 are believed to be allowable for at least the reasons given for claim 1, which is believed to be allowable.

Accordingly, Applicant respectfully requests that the Examiner reconsider the rejections of claims 1-9 and 18-21 under 35 U.S.C. §102(e).

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Claim Rejections Under Obviousness-type Double Patenting

The Examiner has rejected claims 1-9 and 18-21 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5 of Cho. The Examiner states that a timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome this rejection.

Applicants submit herewith a terminal disclaimer. Applicants request entry of this terminal disclaimer. Accordingly, Applicants respectfully request that the Examiner withdraw this rejection.


Conclusion

In view of the foregoing, it is respectfully submitted that the instant application is in condition for allowance. Accordingly, it is respectfully requested that this application be allowed and a Notice of Allowance issued. If the Examiner believes that a telephone conference with Applicants' attorneys would be advantageous to the disposition of this case, the Examiner is cordially requested to telephone the undersigned.

In the event the Commissioner of Patents and Trademarks deems additional fees to be due in connection with this application, Applicants' attorney hereby authorizes that such fee be charged to Deposit Account No. 06-1130.

Respectfully submitted,

CANTOR COLBURN LLP

By 
Chad L. Thorson
Reg. No. 55,675
Confirmation No. 7527
CANTOR COLBURN LLP
55 Griffin Road South
Bloomfield, CT 06002
Telephone (860) 286-2929
Facsimile (860) 286-0115

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Page 3 of 3

KPP-0002/03US03